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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/708,787	03/25/2004	Bernard Krone	404039	2786
30008	7590	03/24/2006	EXAMINER	
GUDRUN E. HUCKETT DRAUDT LONSSTR. 53 WUPPERTAL, 42289 GERMANY			TORRES, ALICIA M	
			ART UNIT	PAPER NUMBER
			3671	

DATE MAILED: 03/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/708,787	Applicant(s) KRONE ET AL.	
	Examiner Alicia M. Torres	Art Unit 3671	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 December 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3 and 5-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3 and 5-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 7-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Newton et al. 4,833,866.

Newton discloses a baling device wherein the following method for determining and controlling a bale length is inherent, the method comprising the steps of:

- Measuring a length change with a sensor (48) for each growth step
- Sending the measured actual length change values to an electronic evaluation device (46)
- Converting the length change values into in the electronic evaluation device (46) into an averaged operand
- Calculating a number of feed strokes in the electronic evaluation device (46) based on the averaged operand, a pre-selected bale length, properties of the harvested material and machine data and repeating
- Comparing in the electronic evaluation device (46) the number of actual feed strokes with the nominal feed strokes
- Triggering the tying device when the number of nominal feed strokes is reached

Incorporating an initial number of feed strokes in the step of calculating a new number of nominal feed strokes by storing the information (see column 3, line 55 through column 4, line 6).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lippens et al. 6,134,870 in view of Newton et al. 4,833,866

Regarding claim 1, Lippens discloses a baler comprising:

- A pick-up (14)
- A feed channel (16)
- A pressing channel (18)
- A conveying device (20), comprising a cutting device, conveying material, in a feed stroke based on the filling of the feed channel, from the feed channel (16) into the pressing channel (18)
- A pressing piston (24)
- A tying device (32).

However, Lippens fails to disclose:

- a sensor detecting the length change of the bale after the feed and pressing strokes and supplying this value to an electronic evaluation device
- an electronic evaluation device
 - that converts the length change to an average operand for determining the required number of feed strokes for reaching a preset nominal bale length

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- the tying device is triggered when the nominal number of feed strokes is completed.

Newton discloses a baling machine including:

- a sensor (48) detecting the length change of the bale after the feed and pressing strokes and supplying this value to an electronic evaluation device (46)
- an electronic evaluation device (46)
 - that converts the length change to an average operand for determining the required number of feed strokes for reaching a preset nominal bale length
 - the tying device is triggered when the nominal number of feed strokes is completed (see column 3, line 55 through column 4, line 6).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the sensing device of Newton on the baling apparatus of Lippens in order to prevent compacting a bale exceeding the desired length.

5. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lippens and Newton et al. as applied to claim 1 above, and further in view of Mesmer et al. 6,708,478.

The device is disclosed as applied above. However, the combination fails to disclose a remote-control operating unit.

Mesmer discloses a similar baling apparatus including a remote-control operating unit (20).

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It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the remote-control of Mesmer on the device of Lippens and Newton in order to provide advantageous positioning.

6. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lippens and Newton as applied to claim 1 above, and further in view of Schrag 5,782,175.

The device is disclosed as applied to claim 1 above. However, the combination fails to disclose wherein the sensor for detecting the bale growth comprises a starwheel that records rotational movement of the starwheel.

Schrag discloses a similar baling apparatus wherein the sensor (16) comprises a starwheel that records rotational movement of the starwheel.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the thumb wheel of Schrag on the device of Lippens and Newton in order to determine a full length of a bale.

7. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lippens and Newton as applied to claim 1 above, and further in view of Innes 2,030,031.

The device is disclosed as applied above. However, the combination fails to disclose wherein the sensor is configured to measure the bale growth by measuring a length of removed tying material.

Innes discloses a baling apparatus that measures the amount of stalks going into a bale by a metering means at a side of a tying device.

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It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the measuring device of Innes on the baler of Lippens and Newton in order to measure a bale.

Response to Arguments

8. Applicant's arguments with respect to claims 1, 3, 5-11 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

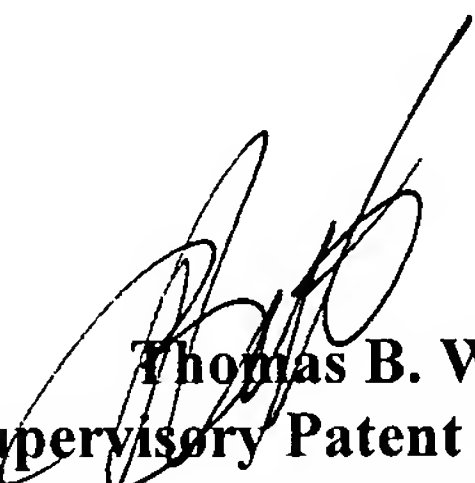
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia M. Torres whose telephone number is 571-272-6997. The examiner can normally be reached Monday through Thursday from 7:00 a.m. – 4:30 p.m.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached at 571-272-6998.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is 703-305-1113. The fax number for this Group is 571-273-8300.



Thomas B. Will
Supervisory Patent Examiner
Group Art Unit 3671

AMT
March 20, 2006